



1000 Vermont Avenue, NW
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Washington, DC 20005
Main: 202-296-8800
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www.environmentalintegrity.org

November 23, 2015

Via e-mail and first class mail

Benjamin H. Grumbles
Secretary of the Environment
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, Maryland 21230
ben.grumbles@maryland.gov

Shawn M. Garvin
Regional Administrator
U.S. Environmental Protection Agency, Region III
1650 Arch St., Mail Code: 3RA00
Philadelphia, PA 19103
Garvin.shawn@Epa.gov

RE: Energy Answers Baltimore, LLC Permit Expiration (PSC. Case No. 9199)

Dear Secretary Grumbles and Regional Administrator Garvin:

I am writing to follow up on an August 12, 2015 letter addressed to Secretary Grumbles from the Environmental Integrity Project ("EIP") and eighteen additional groups requesting that the Maryland Department of the Environment ("MDE") issue a determination that the air quality provisions of the Certificate of Public Convenience and Necessity ("CPCN") held by Energy Answers Baltimore, LLC ("Energy Answers") have expired due to a lapse in construction of over 18 months.¹

We have not received any response from MDE to our August 12, 2015 letter and are writing to provide additional relevant information. Attachment A provides a January 20, 2010 letter from the Pennsylvania Department of Environmental Protection ("PADEP") notifying Robinson Power Company, LLC ("Robinson") that the Plan Approval for² its Beech Hollow waste coal plant expired "by operation of law" due to a lapse in construction. Specifically, PADEP states:

A greater than 18 month lapse in construction has occurred at the Beech Hollow Plant site. Consequently, by operation of law [Robinson's Plan Approval] has

¹ Copies of the August 12, 2015 letter and attachments are enclosed with this letter for the recipients at the U.S. Environmental Protection Agency ("EPA"), to whom we have not previously provided these materials.

² The Plan Approval constituted the Clean Air Act Prevention of Significant Deterioration ("PSD") permit for the Beech Hollow plant.

lapsed and is no longer valid. If you wish to construct the facility, you must submit a new plan approval application to the Department.

PADEP took this action after receiving a November 9, 2009 letter from the U.S. EPA, Region 3,³ stating that the alleged construction activities at the plant site were not sufficient to meet the continuing construction requirements of 40 C.F.R. § 52.21 and concluding that the “plan approval is not valid.”⁴ EPA found that:

None of [the activities claimed by Robinson in a September 23, 2009 letter to be construction] appears to meet the requirement of ‘physical on-site construction activities on an emissions unit which are of a permanent nature.’ All but two of the projects appear to be in the nature of planning and procurement and did not involve any “physical on-site construction.” The two projects that arguably involved physical construction (the access road construction and water and gas line relocation, and the CEMS building foundation) do not appear to be related to construction on an “emissions unit[.]”

EPA further warned that “[s]hould Robinson at this time undertake any activities that constitute ‘actual construction’ without first applying for and obtaining a valid plan approval from PADEP, any such activities would be in violation of the federal Clean Air Act and the approved Pennsylvania State Implementation Plan.”

The facts of the Beech Hollow matter are very similar to the facts of the present matter regarding the Energy Answers waste combustion facility. Based on the most recent documents available to us, Energy Answers has performed no construction of the permitted source, a 4,000-ton-per-day waste incinerator, since October 31, 2013. A site inspection report for a September 17, 2015 inspection by MDE states: “Incinerator Building Location: No new construction activities were observed at this location. The area appears to be in the same condition as observed during the last MDE inspection of June 3, 2015.”⁵ As noted in our August 12, 2015 letter, MDE’s June 3, 2015 inspection report states that “it was observed that the company has not performed any additional construction work on-site since MDE’s last inspection of February 28, 2014” and the February 28, 2014 report states that “[d]uring [that] site inspection, it was confirmed that Energy Answers has not performed any additional work since MDE’s last inspection of November 1, 2013.” In addition, the quarterly construction reports being filed by Energy Answers with MDE fully support these facts. The last activity described in these reports that can be considered construction is the driving of pilings for the stack, which ended on October 31, 2013.

Like the Plan Approval for the Robinson Beech Hollow plant in Pennsylvania, the air quality provisions of Energy Answers’ CPCN have expired by operation of law due to a lapse in construction of more than 18 months. We request that MDE follow the lead of the PADEP and issue a written determination to this effect.

³ EPA’s November 9, 2009 letter is attached as Attachment B along with the September 23, 2009 letter from Robinson to which EPA’s letter responds.

⁴ 40 C.F.R. § 52.21 is incorporated by reference into Energy Answers’ CPCN at Condition A-9(g).

⁵ MDE’s site inspection report for the September 17, 2015 inspection is attached as Attachment C.

Thank you for your consideration and we look forward to your response.

Sincerely,



Leah Kelly

Attorney

Environmental Integrity Project

1000 Vermont Ave. NW, Suite 1100

Washington, DC 20005

Phone: 202-263-4448

lkelly@environmentalintegrity.org

CC: Via e-mail and first class mail

David Arnold

Director (Acting)

Air Protection Division

U.S. Environmental Protection Agency, Region III

1650 Arch St., Mail Code: 3EC00

Philadelphia, PA 19103

Arnold.david@epa.gov

Reginald Harris

Regional Environmental Justice Coordinator

U.S. Environmental Protection Agency, Region III

1650 Arch St., Mail Code: 3EC00

Philadelphia, PA 19103

Harris.reggie@epa.gov

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Director

Air & Radiation Management Administration

Maryland Department of the Environment

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Baltimore, Maryland 21230

george.aburn@maryland.gov

Horacio Tablada

Deputy Secretary for Regulatory Programs & Policy

Maryland Department of the Environment

1800 Washington Blvd.

Baltimore, Maryland 21230

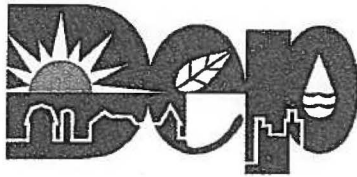
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Roberta R. James
Assistant Attorney General
Office of the Attorney General
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, Maryland 21230
roberta.james@maryland.gov

ATTACHMENT A



Pennsylvania Department of Environmental Protection

400 Waterfront Drive
Pittsburgh, PA 15222-4745
January 20, 2010

Southwest Regional Office

412-442-4000
Fax: 412-442-4194

CERTIFIED MAIL # 7000 1670 0004 1443 4230

Raymond J. Bologna
Principal
PO Box 127
563 Rt 18
Burgettstown, Pa 15021

Re: Robinson Power Company, Beech Hollow Plant
Plan Approval No. 63-00922A
Robinson Township, Washington County
Lapse in Construction

Dear Mr. Bologna:

The Department issued the above captioned Plan Approval to Robinson Power Company on April 1, 2005. Pursuant to Special Condition No. 3 (c), 25 Pa. Code § 127.13(b) and 40 CFR § 52.21 (r)(1) (incorporated by reference at 25 Pa. Code § 127.83), if a lapse in construction of 18 months or longer occurs the existing plan approval is no longer valid, and a new plan approval application must be submitted and approved if the facility is to be constructed.

A greater than 18 month lapse in construction has occurred at the Beech Hollow Plant site. Consequently, by operation of law Plan Approval No. 63-00922A has lapsed and is no longer valid. If you wish to construct the facility, you must submit a new plan approval application to the Department.

If you have any questions I can be reached at (412) 442-4000.

Sincerely,

Mark A. Wayner, P.E.
Program Manager
Air Quality

cc: Joseph Pezze – Hillcrest Group
File
Harrisburg (Permits)
Operations

bcc: M. Heilman, SW OCC
J. Herman, SW OCC
M. Mulroy, SW OCC

ATTACHMENT B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

November 9, 2009

NOV 9 2009

Mr. George Jugovic, Director
Southwest Regional Office
Pennsylvania Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, Pennsylvania 15222

REGION
OFFICE

Dear Mr. Jugovic:

On October 1, 2009 the Pennsylvania Department of Environmental Protection (PADEP) forwarded information to the Environmental Protection Agency (EPA) regarding the Robinson Power Company's (Robinson) Beech Hollow Energy Project. The information included a letter from Robinson dated September 23, 2009 regarding purported construction activities associated with the installation of a 272 net megawatt waste coal fired, circulating fluidized bed boiler to be located in Robinson Township, Washington County. We have reviewed the information to determine whether or not Robinson is pursuing a program of continuing on-site construction, consistent with EPA's interpretation of the requirements set forth at 40 CFR 52.21.

The September 23, 2009 letter from counsel for Robinson to Barbara Hatch of the PADEP Southwest Regional Office recites that it is their response to a PADEP request to describe all "construction, modification or installation activities" at the Beech Hollow site over the last 18 months. The letter lists thirteen discrete activities that support Robinson's belief that they have commenced construction and have engaged in a continuous program of construction for the Beech Hollow project. For purposes of this letter, we assume that at some point Robinson has commenced "actual construction," as that term is defined at 40 CFR 52.21(b)(11):

[I]nitiation of physical onsite construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures.

We cannot, however, determine if construction has ever actually commenced based on the limited information contained in the September 23 letter. We therefore limit our analysis and conclusion to whether the activities outlined in the September 23 letter, either alone or in the aggregate, indicate that actual construction has been continuing for the Beech Hollow project during the period set forth in the September 23 letter.



According to 52.21(r)(2):

Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

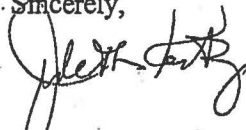
More than fifty months have elapsed since this permit was issued in April 2005. None of the information in the September 23 letter appears to meet the requirement of "physical onsite construction activities on an emissions unit which are of a permanent nature." All but two of the projects appear to be in the nature of planning and procurement and did not involve any "physical on-site construction." The two projects that arguably involve physical construction (the access road construction and water and gas line relocation, and the CEMS building foundation), do not appear to be related to construction on an "emissions unit," and even if they were, commenced more than 18 months after the issuance of the plan approval by PADEP in April 2006 (both projects commenced in 2008).

On the basis of this information we would conclude that the April 2005 plan approval is not valid. By copy of this letter we are providing PADEP and Robinson with our current interpretation of the federal pre-construction permitting requirements as it applies to the facts presented to us. Should Robinson at this time undertake any activities that would constitute "actual construction" without first applying for and obtaining a valid plan approval from PADEP, any such activities would be in violation of the federal Clean Air Act and the approved Pennsylvania State Implementation Plan. In particular, pursuant to 40 CFR 52.21(r)(1):

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

I look forward to discussing any questions regarding this letter. Please contact me at 215-814-2654.

Sincerely,



Judith Katz, Director
Air Protection Division

Cc: Joyce Epps, PADEP



ROBINSON POWER COMPANY, LLC

**P.O. Box 127
563 Route 18
Burgettstown, PA 15021
724.947.1966 Telephone
724.947.1968 Fax**

**VIA ELECTRONIC MAIL AND
FEDERAL EXPRESS**

September 23, 2009

Barbara R. Hatch, P.E.
Air Quality Program
Department of Environmental Protection
Southwest Regional Office
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Re: Construction Activities Update, Beech Hollow Energy Project
Plan Approval PA-63-00922A
Robinson Township, Washington County

Dear Ms. Hatch:

This responds to the Department of Environmental Protection's ("Department") September 1, 2009 letter requesting Robinson Power Company, LLC ("Robinson Power") to provide the Department with a narrative description of all "construction, modification, or installation activities" that have taken place at the site of the proposed Beech Hollow Energy Project ("Project") in the past 18 months and supporting documentation. The Department's letter was received by Robinson Power on September 3, 2009, and because of the intervening Labor Day holiday and the amount of information requested by the Department, our counsel advised Department counsel by letter dated September 18, 2009 that additional time would be required to respond to the Department's request. The attachments referenced in this response will be forwarded under separate cover via Federal Express.

Robinson Power's March 14 and 25, April 17, and December 16, 2008 submissions to the Department in support of its request for an extension of Plan Approval No. PA-63-00922A contain detailed descriptions of construction activities at the Beech Hollow Energy Project. Those narrative descriptions of construction activity and related documentation and photographs are incorporated herein by reference and supplemented with the enclosed invoices and associated documentation and other pertinent information. Reports of the status of the Beech Hollow Energy Project construction and photographs of site construction activity from September 2006 through June 2009 are posted on the website of the Robinson Township Citizens Advisory

Committee (<http://cacrobinson.com>). The Committee was established pursuant to Robinson Township Resolution No. 08-06 as a condition of the Project's land development approval.

Robinson Power requests that the names of the contractors cited in this response, as well as the amounts paid to the contractors, be treated as confidential and that all of the documentation submitted in support of this response be held confidential. The disclosure of this confidential business information may adversely impact Robinson Power's competitive position. A redacted version of the letter will be provided to the Department under separate cover.

Access Road Construction and Water and Gas Line Relocation

Site grading work was conducted from January 2008 through the Spring of 2008. At the same time the South Access Road to the site was reconstructed and resurfaced to facilitate access by construction vehicles and erosion and sedimentation control measures along the road were reconstructed.

Construction of the Main Access Road commenced in July 2008. The first phase of the road construction involved clearing and grubbing, excavation and filling to design elevations, installation of the road drainage system, placement of erosion and sediment control measures and rock toe drainage benches, relocation of the water and gas lines, and installation of the sub-base road surface. The second phase of the access road construction involved the application of bituminous base and topcoat wearing surfaces and the installation of guide rails on a portion of the road, signage, and road lighting improvements, and it was completed in June 2009.

Copies of invoices for the South and Main Access Road construction work for the period January 1, 2008 to June 8, 2009 are enclosed at Attachment A. Each invoice contains a progress report, including the work completed for the invoice period and the work completed to date; the tasks; and the unit price for each task. Approximately \$1 million has been expended for road construction during the period of time covered by the Department's request.

CEMS Building Foundation

The foundation of the CEMS building was completed in Spring 2008 at a cost of over \$8,000. Copies of the invoices from [REDACTED] Construction for this construction work are enclosed at Attachment B.

Project Site Layout

During the period May 2008 through January 28, 2009, [REDACTED] prepared a site layout and designed the water and gas line relocations and access roads necessary for Project Site development. Copies of [REDACTED]'s invoices are enclosed at Attachment C. Over \$[REDACTED] was expended for this work.

Analysis of Fuel Sources

During the period May 2008 through March 2009 [REDACTED], Inc. ([REDACTED]) sampled and analyzed the fuel on the adjacent Champion Processing Refuse Disposal Site. Waste coal from this site will be the primary source of fuel for the Beech Hollow Energy Project, so knowledge of its properties is essential to the design of the boiler, pollution controls, and the materials handling system at the Project. [REDACTED] produced a report, which is proprietary. Copies of [REDACTED]'s invoices appear at Attachment D and contain detailed accounts of tasks, personnel, and time. Approximately \$[REDACTED] was expended on this construction task.

Water Supply Feasibility Study and Service Agreement

The Air Quality Plan Approval applications for the Project proposed that the water be obtained from a public water supplier (See Section 15.0 of the General Information Form included with the Plan Approval Application). As part of the proposed Water Supply Agreement with the [REDACTED], \$[REDACTED] was provided to the [REDACTED] to conduct an evaluation of the capacity and required improvements to the Company's [REDACTED] water treatment plant. The letter agreement regarding the study and the scope of work is provided at Attachment E.

Flow Properties Testing

[REDACTED] conducted flow properties testing on the Project fuel sources in January and February 2009 and, based on the testing results, reviewed the proposed silo design and made further recommendations concerning its design. The silos are part of the materials handling system authorized by the Plan approval (see, e.g. Paragraph 3(a) of the Plan Approval). Copies of [REDACTED]'s invoices for this work are at Attachment F. Nearly \$[REDACTED] was expended on this task.

PJM Interconnection

The Project must be interconnected with PJM before the power generated may be sold to the grid. The PJM requires that various studies, including Generation Interconnection Feasibility and System Impact Studies, as part of its process of determining whether a generator should have capacity interconnection rights. Given the time to develop generation capacity and the issues associated with entering the grid, the generator must be in the so-called interconnection queue and maintain its position there. The generator must submit a deposit and fund the cost of all of the studies performed by PJM (see "Generation and Transmission Interconnection Process," PJM Manual 14A (February 1, 2009), found at <http://www.pjm.com/documents/~media/documents/manuals/ml14a.ashx>).

During the period covered by the Department's request, the Project was responsible for funding a Facility Study Report, System Impact Study, and various engineering tasks at a cost of approximately \$[REDACTED]. Invoices for that work appear at Attachment G.

Robinson Township Resolution No. 08-06

As a condition of Robinson Township's approval of the land development plan for the Project, Robinson Power was required to pay host fees to Robinson Township during the construction period for the Project. Host fees of \$150,000 were paid to Robinson Township during the time covered by the Department's request. Copies of the letters transmitting these fees are enclosed at Attachment H.

Engineering Consulting Services for Air Quality Permitting

The Project incurred engineering consulting services costs during the construction phase as a result of the Department's requirement to perform and submit a case-by-case MACT analysis and a re-analysis of BACT, BAT and LAER requirements. These analyses are construction-related, as the results could have affected the design parameters for the boiler, other Project sources and emission control technology. Invoices from [REDACTED] Inc. and The [REDACTED] for the period covered by the Department's request are set forth at Attachment I. They include task descriptions and hourly rates. The [REDACTED] invoices also include fees for conducting dust fall monitoring during the construction period as mandated by Robinson Township Resolution No. 08-06. All told, approximately [REDACTED] was expended for engineering consulting fees during the time covered by the Department's request.

Project Engineering, Procurement and Construction ("EPC")

As noted in Robinson Power's December 16, 2008 letter supplementing its request for an extension of the Plan Approval, [REDACTED] Corporation ("[REDACTED]") was selected by Beech Hollow Holdings to be the EPC contractor for the Project and a Memorandum of Understanding was executed that defined [REDACTED] initial scope of work. Among other things, [REDACTED] developed equipment specifications and defined the construction process. During the time covered by the Department's request, nearly \$[REDACTED] was expended on work performed by [REDACTED]. Copies of [REDACTED] invoices are enclosed at Attachment J.

Boiler

As described in Robinson Power's December 16, 2008 supplement to its request for extension of the Plan Approval, Beech Hollow Holdings entered into an agreement with [REDACTED] ("[REDACTED]") in August 2008 for the design and purchase of Project boiler. [REDACTED] invoiced the Project for \$[REDACTED] from August-December 2008. Copies of the [REDACTED] invoices are included at Attachment K.

Robinson Power believes that this information establishes that there has been no lapse in construction activities at the Beech Hollow Energy Project for a period of 18 months. On the contrary, it demonstrates that construction activities have been on-going during the time that is the subject of the Department's request.

138 KV Transmission Line

The power generated by the Project must be transmitted to the grid in order to be marketed. This will entail the construction of a 138 KV transmission line for which rights-of-way must be obtained. Expenses of over \$110,000 have been incurred to acquire the rights-of-way including mapping, recordation, and option/right-of-way payments. Documentation of these expenses is at Attachment L.

Champion Refuse Pile

The Champion Refuse Pile and the Project are integrally related, as described in Section 9.2.3 of the Plan Approval Application. The Champion Refuse Pile is the primary source of fuel for the Project and will be reclaimed with ash from the Project's CFB boiler. This reclamation will dramatically reduce the pollution load from the Champion Refuse Pile and the refuse site will ultimately be returned to productive economic use. In order to effectuate this relationship, the Champion Refuse Pile site must be maintained, the mine drainage must be treated, and relevant authorizations must be renewed or obtained as part of construction activities related to the Project.

During the time covered by the Department's request Champion Processing Inc. was required by the terms of a Post-Mining Treatment Trust Consent Order and Agreement to contribute \$165,000 to a treatment trust; that trust specifically recognizes the relationship between the Project and the Champion Coal Refuse Pile. Additionally, during this time the "yellow boy pond" on the Champion Site was enlarged at a cost of approximately \$45,000.

Champion Processing also retained [REDACTED] to prepare the applications for renewal of the site's coal refuse disposal permit and for the dam safety permit for the site's so called "duck pond." The coal refuse disposal permit renewal application contains extensive material regarding the beneficial use of coal ash at the Champion Refuse Pile. During the period of time covered by the Department's request, over \$[REDACTED] was expended for these engineering and consulting services.

Copies of relevant pages from the Post-Mining Treatment Consent Order and Agreement (to which the Department is a party) and the invoices for the engineering and consulting services and pond enlargement are found at Attachment M.

Barbara R. Hatch, P.E.

September 23, 2009

Page 6

Robinson Power believes that this information establishes that there has been no lapse in construction activities at the Project, much less a lapse of 18 months. If the Department has any questions regarding this letter or the documentation provided in support, please contact me.

Sincerely,

Raymond J. Bologna
Principal

Attachments

c: Maxine M. Woelfling, Esquire
Joseph P. Pezze, The Hillcrest Group
John Herman, Esquire
Michael J. Heilman, Esquire
Marianne Mulroy, Esquire

ATTACHMENT C

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION
INSPECTION AND OBSERVATION / AFS POINT ACTION

Baltimore City
COUNTY

Energy Answers Baltimore LLC
FACILITY NAME

AFS No. : 24-510-3532
MDE AI : 67286

ADDRESS 1701 E Patapsco Ave , Curtis Bay, MD 21226

DATE OF
INSPECTION 09/17/2015

ANNOUNCED ☐

UNANNOUNCED ☐

ARRIVAL TIME

AM ☐ PM ☐

DEPARTURE TIME

AM ☐ PM ☐

INSPECTOR NAME Lang, Steve - Y60

ACTION TYPE / RESULT CODE

PS - Partial Compliance Evaluation - On Site 09/17/2015
47 - Discuss Modification/Construction

FACILITY
CONTACT

NAME

AIR PROGRAM

0-SIP Source
6-PSD
7-NSR

TELEPHONE NO.

TEMPERATURE

☒ HOT ☐ COLD

☐ MODERATE

WEATHER

☐ CLEAR ☐ OVERCAST

☐ RAIN/SNOW ☐ PARTLY
CLOUDY

WIND DIRECTION

N
W + E
S

WIND SPEED

☐ CALM ☐ MODERATE

☐ LIGHT ☐ STRONG

DISCUSSION:

**2015 September 17 - Site Inspection
Verification of Construction**

On September 17, 2015, the Department conducted a site inspection of the Energy Answers Fairfield site. The purpose of the inspection was to determine the status of the construction of their Fairfield Renewable Energy Project.

Energy Answers received a permit from the Maryland Public Service Commission (PSC) (CPCN #9199) on August 6, 2010 for the construction of a 120 MW renewable energy power plant at the Fairfield, MD location in Baltimore City. Energy Answers requested and was granted by the PSC on December 10, 2012 an extension of 18-months to begin construction of the Fairfield Renewable Energy Project. In the extension, Energy Answers was given until August 6, 2013 to commence construction of the Fairfield Renewable Energy Project.

The following observations were noted during the September 17, 2015 Energy Answers site inspection:

- **Concrete Crushing Plant** - The concrete crushing plant was not onsite. A temporary permit to construct for the concrete crusher was issued by MDE on July 14, 2015. The PTC limits the amount of concrete that can be processed to 20,000 tons,
- **North Parcel** - Mr. Kevin Jones of EA stated that in order to prepare the North Parcel as a construction lay down site and to allow for 3rd party use of the North Parcel, several of the FMC's concrete building foundations and piers need to be removed. EA wants to include this new (onsite) concrete into their crushing permit. Mr. Jones stated that EA will seek approval from MDE to allow for additional concrete crushing at the site above the limited 20,000 tons. Mr. Jones also stated that EA will wait to start the


crushing of any of the concrete until they get approval to crush the additional concrete. EA has hired a landscaping firm to remove underbrush and vegetation from the North Parcel site in preparation for the crushing plant as well as prepare the North Parcel for 3rd party use. Mr. Jones stated that once crushing does begin it will take 12 to 14 weeks to complete,

- **Incinerator Building Location** – No new construction activities were observed at this location. The area appears to be in the same condition as observed during the last MDE inspection of June 3, 2015,
- **EA Shoreline Nature Walk** – As part of the site project, EA is proposing to complete an EA Shoreline Nature Walk. The Nature Walk will be located on top of the old FMC landfill on the south portion of the facility. Currently this portion of the project is in the design phase as noted in EA's 2nd quarter 2015 construction activities progress report,
- **Warehouse Reactivation** – EA has received inquiries for 3rd party use of the 70,000 sq ft warehouse. EA states in their 2nd quarter 2015 construction activities progress report that reactivation of the warehouse requires soil gas studies and utility reconnection. No construction activities at the warehouse were observed during the September 17, 2015 inspection, however, we did not enter the building to check if any work was being done in there.

See attachment for pictures taken during the inspection.



Inspector Signature Date 9/24/15



Supervisor Signature Date 9/24/15

AFS COMMENT: 2015 September 17 - Construction Verification Inspection

ATTACHED SPECIFIC INSPECTION FORMS

Energy Answers Baltimore, LLC
1701 East Patapsco Ave
Baltimore, MD 21226

Facility # 510-3532
AI # 67286

CONTACT:

Kevin Jones, Consultant

Email: kjones@energysanswers.com

Phone: (443) 602-3750 Cell: (443) 602-3751

Inspection Date: September 17, 2015

Inspector: Steve Lang, ARMA Compliance Program 

INSPECTION FINDINGS:

The concrete crushing plant was not onsite. A temporary permit to construct for the concrete crusher was issued by MDE on July 14, 2015. The PTC limits the amount of concrete that can be processed to 20,000 tons.

BACKGROUND:

On August 6, 2010, Energy Answers received a permit to construct from the Maryland Public Service Commission (PSC) (CPCN #9199) for the construction of a 120 MW renewable energy power plant at the old FMC location in Fairfield, MD (Baltimore City). On December 10, 2012, the PSC granted Energy Answers' motion to extend the deadline to begin construction of the Fairfield Renewable Energy Project by eighteen (18) months (until August 6, 2013). On August 6, 2013, the Department received a letter dated August 6, 2013 via email from Michael McNerney, Vice President of Energy Answers Baltimore LLC, stating that construction of the Fairfield Renewable Energy Project has commenced. On September 12, 2013, MDE confirmed that construction did begin with the installation of steel pilings for the Plant's stack. On November 1, 2013, MDE confirmed that all 32 pilings for the stack foundation were in place. The company stated that the removal of the pile driving rig in March 2014 completed Phase I of the Plant's construction project. Phase II of the construction project will begin with the construction of the raised foundation for the plant building.

INSPECTION NOTES:

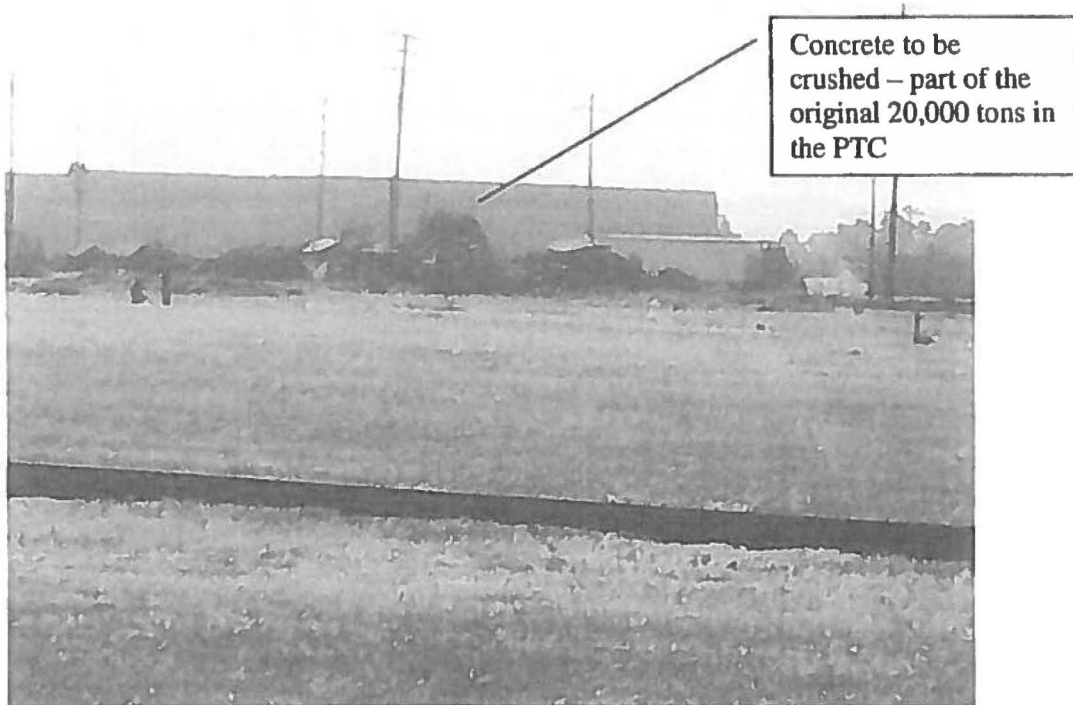
The following observations were noted during the September 17, 2015 Energy Answers site inspection:

- **Concrete Crushing Plant** - The concrete crushing plant was not onsite. A temporary permit to construct for the concrete crusher was issued by MDE on July 14, 2015. The PTC limits the amount of concrete that can be processed to 20,000 tons,
- **North Parcel** - Mr. Kevin Jones of EA stated that in order to prepare the North Parcel as a construction lay down site and to allow for 3rd party use of the North Parcel, several of the FMC's concrete building foundations and piers need to be removed. EA wants to include this new (onsite) concrete into their crushing permit. Mr. Jones stated that EA will seek approval from MDE to allow for additional concrete crushing at the site above the limited 20,000 tons. Mr. Jones also stated that EA will wait to start the crushing of

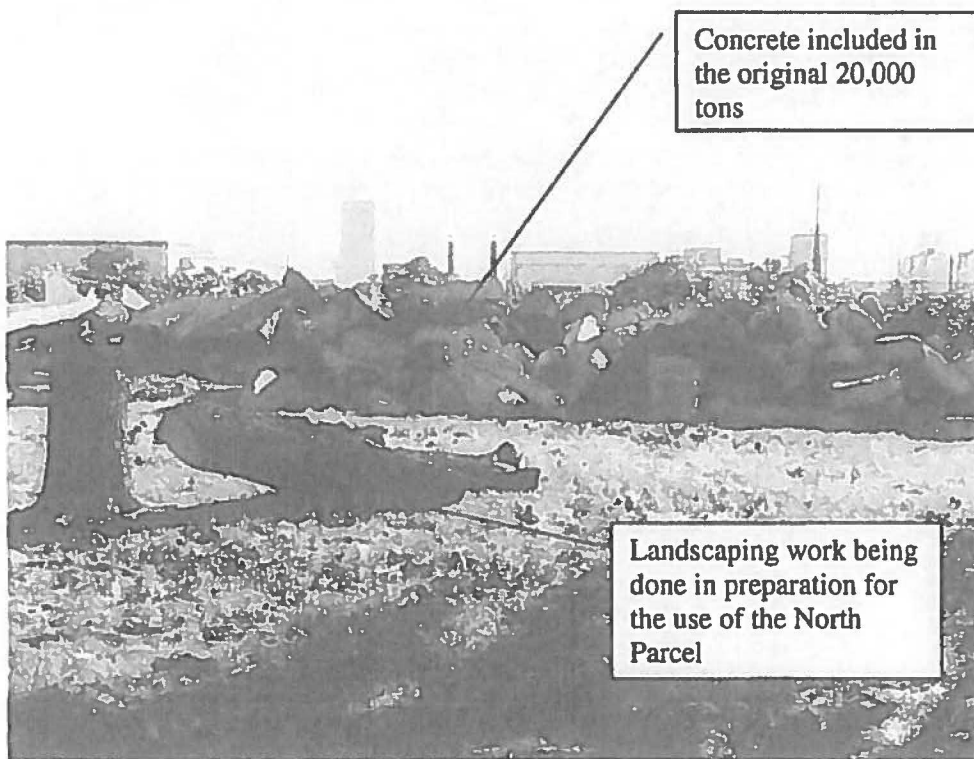
any of the concrete until they get approval to crush the additional concrete. EA has hired a landscaping firm to remove underbrush and vegetation from the North Parcel site in preparation for the crushing plant as well as prepare the North Parcel for 3rd party use. Mr. Jones stated that once crushing does begin it will take 12 to 14 weeks to complete,

- **Incinerator Building Location** – No new construction activities were observed at this location. The area appears to be in the same condition as observed during the last MDE inspection of June 3, 2015,
- **EA Shoreline Nature Walk** – As part of the site project, EA is proposing to complete an EA Shoreline Nature Walk. The Nature Walk will be located on top of the old FMC landfill on the south portion of the facility. Currently this portion of the project is in the design phase as noted in EA's 2nd quarter 2015 construction activities progress report,
- **Warehouse Reactivation** – EA has received inquiries for 3rd party use of the 70,000 sq ft warehouse. EA states in their 2nd quarter 2015 construction activities progress report that reactivation of the warehouse requires soil gas studies and utility reconnection. No construction activities at the warehouse were observed during the September 17, 2015 inspection, however, we did not enter the building to check if any work was being done it there.

INSPECTION PICTURES:



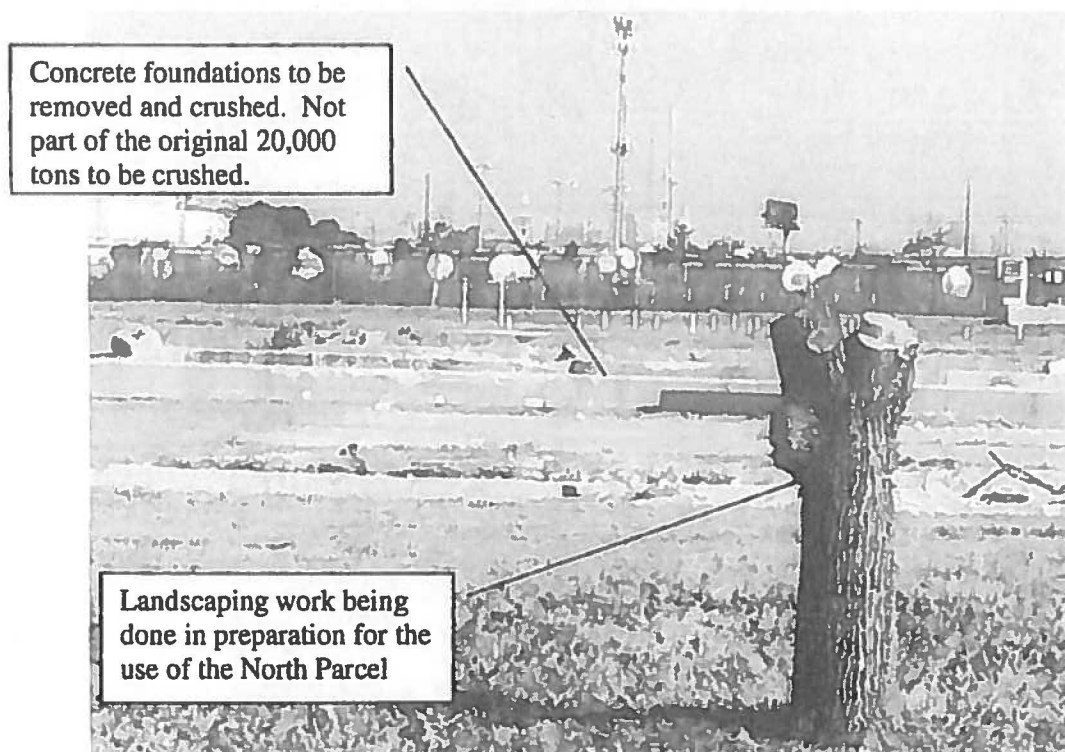
North Parcel Site



Concrete included in
the original 20,000
tons

Landscaping work being
done in preparation for
the use of the North
Parcel

North Parcel Site



Concrete foundations to be
removed and crushed. Not
part of the original 20,000
tons to be crushed.

Landscaping work being
done in preparation for the
use of the North Parcel

North Parcel Site



North Parcel Site

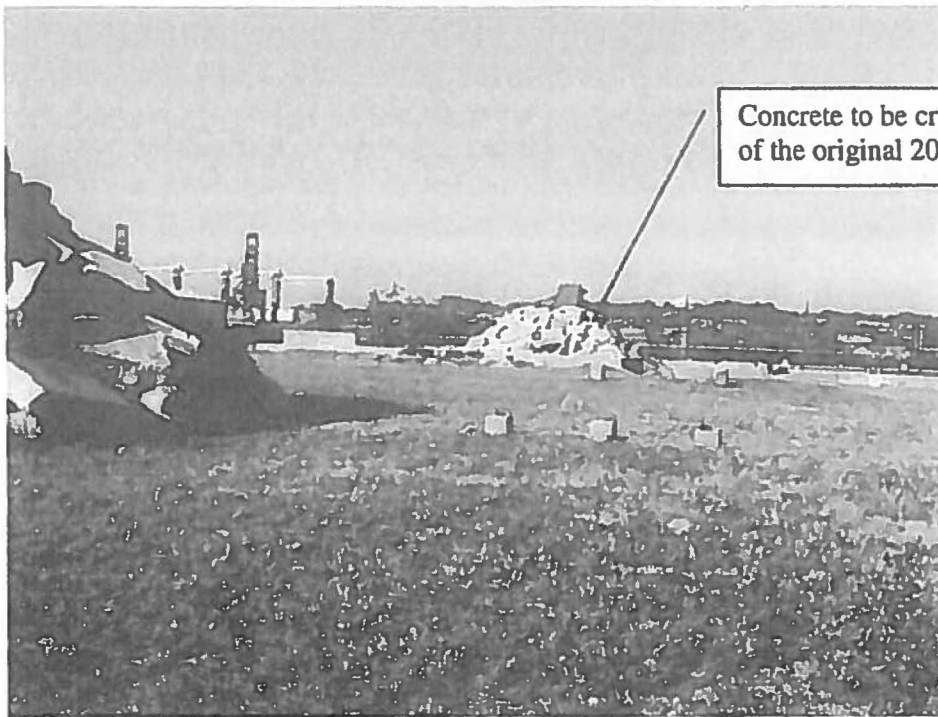


North Parcel Site



Concrete to be crushed. Part
of the original 20,000 tons

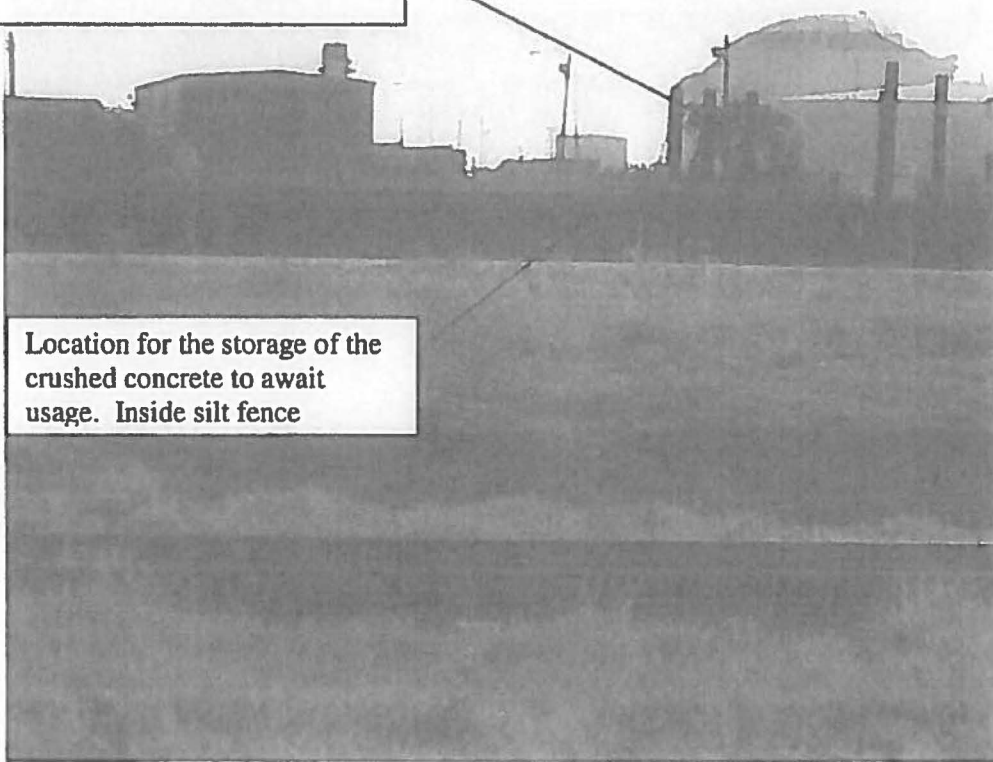
Main Building Location



Concrete to be crushed. Part
of the original 20,000 tons

Main Building Location

Pilings for the plant stack



Location for the storage of the
crushed concrete to await
usage. Inside silt fence

Stack Location